

**BEFORE THE  
NATURAL RESOURCES COMMISSION  
OF THE  
STATE OF INDIANA**

<b>IN THE MATTER OF:</b>  <b>PETITION FOR RATE INCREASE BY HOOSIER HILLS MARINA, INC.</b>	) ) ) )	<b>ADMINISTRATIVE CAUSE NUMBER: 08-080P</b>
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**REPORT OF HEARING OFFICER, INCLUDING FINDINGS  
AND PROPOSAL TO THE NATURAL RESOURCES COMMISSION  
AS TO ITS RECOMMENDATIONS TO THE U.S. ARMY CORPS ENGINEERS**

**1. PETITION FOR RATE INCREASE BY HOOSIER HILLS MARINA, INC.**

Jeff Dukes, President of Hoosier Hills Marina, Inc. (*Hoosier Hills*), filed a petition dated March 15, 2008 with the Division of State Parks and Reservoirs of the Department of Natural Resources (*Department*) seeking rate increases for facilities operated on Patoka Lake. The petition, which was forwarded to the Natural Resources Commission (*Commission*) and filed on May 8, 2008, seeks rate increases on most sizes of slips within the marina. Along with the petition, Mr. Dukes provided a spreadsheet reflecting current rates, proposed rates, percentage of change in rate, and the square footage charge associated with each proposed rate. In a letter dated May 30, 2008, Jeff and Shellie Dukes provided an amended spreadsheet, (Exhibit A) reflecting the same information contained within the previous document but which also identified eight (8) different slip sizes that were presently being charged based upon an interim rate established by the Department. Hoosier Hills also seeks confirmation of those interim rates and, in four (4) instances, approval of increases to those interim rates.

**2. SCOPE OF REVIEW**

Hoosier Hills Petition is governed by a nonrule policy document approved by the Commission as Information Bulletin #20 (First Amendment) (<http://www.ai.org/nrc/policy/marinara.html>), and published in the *Indiana Register* on August 1, 2003 (26 IR 3761). The Commission reflected that the purpose of the document was to implement an informal process for the review of ratemaking recommendations for resorts and marinas under lease with the Department.

According to the nonrule policy document, a lessee desiring a rate increase for a guestroom, slip, or houseboat shall submit its request to the Department, in accordance with the existing lease agreement, by April 1 of the year preceding the year in which the lessee expects to implement the increased rate. Upon receiving a request, the Department informs the Division of Hearings of the Commission (*Hearings Division*). The Hearings Division assigns a cause number and, in consultation with the Department, selects the

date and time for a rate hearing to be held in Indianapolis. The Department advises the lessee of the date, time, and location in Indianapolis of the rate hearing, at which time the lessee and affected persons may provide comments to a Commission hearing officer.

Petitions, requests, documentation, exhibits, and other pertinent materials concerning the proposed rate increase request are to be available for the public to review at the lessee's business office, during normal business hours. The lessee shall provide notice of the proposed rate increase petition to each slip or buoy renter. A copy is also to be made available for the public to review at the Division of State Parks and Reservoirs, 402 West Washington Street, Room W298, Indianapolis, Indiana, 46204. Affected persons may send written comments concerning the proposed rate increase to the Commission's Division of Hearings. In accordance with the existing lease agreements, the Department is to analyze comparable facilities to compare rates with those sought by the lessee. Information used in the analysis is to be available for inspection at the Division of State Parks and Reservoirs office in Indianapolis.

Affected persons may attend the rate hearing and provide oral or written statements. The hearing officer shall conduct the hearing in an orderly and informal manner designed to develop a fair and complete agency record. The Administrative Orders and Procedures Act (IC 4-21.5) does not apply, but the hearing officer is delegated full authority by the Commission to implement IC 14-11-1-3, and to make any orders reasonable in implementing the purpose of the nonrule policy document. The lessee's request and any supporting documentation, written comments provided by affected persons, the analysis by the Department, and oral and written statements received during the rate hearing form the record upon which the hearing officer shall review the request for rate increase.

Following the completion of the review, the hearing officer is to prepare a written report to the Commission. The report is to include written findings with respect to the requested rate increase and a proposal to the Commission with respect to recommendations to the U. S. Army Corps of Engineers. The hearing officer shall also forward a copy of the report to the lessee, the Department, and any other person who requests a copy.

The hearing officer is to present the findings and recommendations to the Commission during a meeting to be held in August or September. During that meeting, the Commission will either recommend approval of the rate increase, disapproval of the rate increase, or approval of a rate increase in an amount less than requested by the lessee. Recommendation for favorable consideration of a rate increase will not be withheld unless, in the opinion of the Commission, fees submitted exceed fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area.

### **3. PUBLIC HEARING AND WRITTEN COMMENTS**

Hoosier Hills provided the requisite notice of its Petition to affected persons. The notice provides details of the proposed rate increases and announces the ability of individuals to

provide input regarding the petition. A public hearing was conducted as scheduled on July 9, 2008. Comments were received during the hearing as follows:

**A. Petitioner at Public Hearing**

Jeff Dukes, Hoosier Hills Marina

Mr. Dukes referred to Hoosier Hills' petition for rate increase highlighting that the marina has not sought a rate increase since 2001 despite rising costs of doing business. Throughout this period of time, Hoosier Hills has invested in the re-construction of A and B docks with certain slips on B dock now being covered. Hoosier Hills has also constructed C dock. Additionally, Hoosier Hills has replaced steps with bridges for the benefit of all patrons, including those with disabilities.

Mr. Dukes explained that the rates being charged for certain slips are interim rates. Hoosier Hills is seeking affirmation of those interim rates and is, in four (4) instances, requesting the establishment of a rate higher than the previously established interim rates. The slips being charged interim rates are:

A-Dock

20' x 80' single berth

20' x 75' single berth

B-Dock

12' x 24' single covered

12' x 30' single covered

C-Dock

16' x 36' double berth

14' x 36' double berth

14' x 30' single berth

12' x 30' single berth

Mr. Dukes apologized for any deviation from Non-Rule Policy #20's requirements but advised that the interim rates had been charged for over one boating season. He explained that he interpreted the policy as requiring him to obtain Commission rate approval for newly constructed slips the next time he requested a rate increase. He did not understand the intent of the policy was for interim rates to be valid for only one boating season with the requirement that those interim rates be brought before the Commission for approval the next year.

Mr. Dukes explained that he has discussed the rate increase with several boaters and he estimated that 20 – 25% of the boaters have expressed their understanding that the rate increase is necessary. In most cases, the rate increase being requested amounts to approximately 2% per year since Hoosier Hills Marina's last rate increase.

**B. Affected Persons at Public Hearing**

No member of the public attended or offered comments at the public hearing.

**C. Affected Persons' Written Comments**

One written comment was received outside of the public hearing.

**Albert and Karen Fischer, commented as follows:**

Our boat is docked on A-Dock 16' x 45' double berth. The proposed increase in the rate for this slip is 15%, which is a 5% higher increase than all other slips on the A-Dock. The last rate increase also involved a rate hike that was disproportionate to the other slips on A-Dock (approximately 15% as opposed to 10%).

We have been boating from this Marina since 1988 and if we continue to pay 50% more per rate hike, we will no longer be able to justify the cost of boating on Patoka Lake.

A moderate increase is expected and acceptable, but we feel singled out by being expected to pay more than our fair share.

Please consider our situation as it will have a direct effect on our decision to continue boat ownership and operation in the State of Indiana.

**4. RECOMMENDATION BY THE DNR DIVISION OF PARKS AND RESERVOIRS**

As anticipated in the nonrule policy document, the Division of State Parks and Reservoirs has completed a comparative review of slip rates for Hoosier Hills. Gary Miller, Assistant Director of Inns and Concessions, prepared a summary of the review found below:

Hoosier Hills Marina has submitted a rate increase request for the 2009 season. Along with this, they have submitted interim rates for approval and some other miscellaneous rates for other services. The increase requests range from 0% on some slips to 18% on one size slip. The last increase granted for this marina was 5 years ago.

The Division of State Parks and Reservoirs has compared the existing rate of the marina to the existing rates of other marinas (see attached spreadsheet) and found that the rates for Hoosier Hills Marina are well within the range of the other marinas, and in many cases have some of the lowest rates.

It is the opinion of the Division that the interim rates along with the proposed increase for both interim and permanent rate be approved as submitted. It is also recommended that the miscellaneous items be approved. These are for mooring buoys and storage.

The referenced spreadsheet is attached as Exhibit B

**5. FINDINGS AND PROPOSAL BY THE COMMISSION'S DIVISION OF HEARINGS**

**A. Findings**

The scope of the review accorded by the Commission in Information Bulletin #20 is addressed to petitions for rate increase at marinas and related facilities on properties owned or leased by the Department. Although the Department may appropriately exercise whatever rights are provided in a ground lease with respect to marina facilities, as well as any other rights provided by law or equity, the scope of review for the purpose of setting rates at marinas and related facilities is determined by Information Bulletin #20 (First Amendment), which specifies that the lessee "shall include justification for the increase request along with comparable rates from other marinas." Information Bulletin #20 (First Amendment) proceeds to specify that "the department will analyze comparable facilities to compare rates with those sought by the lessee."

The Commission's role in the setting of rates at marina facilities on Department leased or owned properties is to offer a recommendation regarding the appropriateness of the rates to the U. S. Army Corps of Engineers (*USACE*), which will ultimately determine to accept or reject the recommendation. In exercising its responsibility to offer a recommendation to the USACE, the Commission has charged the appointed hearing officer with the responsibility to review the record, which includes the "lessee's request and any supporting documentation, written comments provided by affected persons, the analysis by the department, and oral and written statements received during the rate hearing" in preparing a report and proposed recommendation for Commission consideration.

The Commission, through its adoption of Information Bulletin #20 established as fundamental to a determination of the appropriateness of a proposed rate increase the consideration of rates charged by other marinas for comparable facilities. The Department's provided spreadsheet of comparable facilities reveals that the increased rates proposed by Hoosier Hills are generally consistent with or lower than rates charged by other marinas. One example of this can be found with respect to the 16' x 45' slip for which Hoosier Hills proposed an increased rate of \$2,300.00. The comparable spreadsheet reveals no other marina charging less than \$3,535.00 for a slip of this length. It is also apparent that Hoosier Hills has considered the rates of comparable facilities in making its request because it has requested no rate increase in instances where its rates are already consistent, or higher, than other marina's rates. For instance, Hoosier Hills has requested no increase in the present \$2,500.00 rate for its 12' x 30' single berth covered slip where comparable slips where ten (10) of eighteen marinas are charging rates somewhat less than Hoosier Hills' present rate.

Hoosier Hills has not increased rates in five (5) years, but understandably has experienced increases in the costs of doing business. Within its Petition, Mr. Dukes reflects that a variety of improvements have been made to the marina, including the replacement of steps with bridges for improved access to boaters with disabilities, the

reconstruction of both A-Dock and B-Dock and the new construction of C-Dock. Additionally, Hoosier Hills has added a year round sewage system to the houseboat dock.

The one written comment received complains that the percentage increase of 15% associated with the 16' x' 45' double berth slip is disproportionate to the 10% increases requested for other slip sizes on A-Dock. The accuracy of this comment is acknowledged. While the percentage increase may be higher than the percentage increase proposed for other slips, the discussion above reflects that the proposed increased rate for a slip of this size remains nearly \$1,200.00 less than slips of this size at other marinas.

The preponderance of the evidence available for consideration reveals that the interim rates previously authorized by the Department should be confirmed and that the increased rates sought by Hoosier Hills, including the increases to the interim rates for 20' x 80' single berth, 20' x'75' single berth, 16' x 36' double berth and 14' x 36' double berth slips, are reasonable and appropriate and should properly be recommended for approval.

**B. Proposal**

Consideration of all available information indicates that the rate increase sought by Hoosier Hills for the existing facility beginning with the 2009 season should be recommended to the U. S Army Corps of Engineers for approval.

The rates recommended for approval are identified at Exhibit A.

Dated: August 22, 2008

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Sandra L. Jensen  
Hearing Officer

**Service List:**

cc: Gary Miller, DNR, Division of State Parks and Reservoirs  
Jeff Dukes, Hoosier Hills Marina, Inc.

# AGENDA ITEM #20

The proposed slip and storage rates are as follows:

	<u>Current</u>	<u>Proposed rate</u>	<u>\$/ft2</u>	<u>% change</u>
A-Dock				
20' X 80' single berth *	4000	4400	2.75	10
20' x 75' single berth *	3750	4125	2.75	10
18' X 70' single berth	3300	3640	2.88	10.3
17' X 60' single berth	3080	3390	3.53	10.06
18' X 70' double berth	2750	3050	2.42	10.9
18' X 60' double berth	2530	2790	2.58	10.28
16' x 50' double berth	2310	2550	3.18	10.38
16' X 45' double berth	2000	2300	3.19	15.0
B-Dock				
12' X 24' Single Covered *	2000	2000	6.94	0
12' X 30' Single Covered *	2500	2500	6.94	0
12' X 24' double berth	900	950	3.29	5.55
C-Dock				
16' X 36' double berth *	1700	1800	3.12	5.88
14' X 36' double berth *	1500	1600	3.17	6.66
14' X 30' single berth *	1700	1700	4.04	0
12' X 30' single berth *	1600	1600	4.44	0
12' X 30' double berth	1100	1300	3.61	18.18
* = interim rates charged on newly built slips.				
Daily w/o electricity	15	20		33
Daily w/ electricity	20	30		50
Mooring Balls				
Small Boat	450.00	500.00		11.1
Houseboat	500.00	600.00		20.0
Storage				
Winter wet storage	300.00	500.00		66.7
Winter dry storage	300.00	400.00		33.0
Lot storage/ month	30.00	40.00		33.0
Covered lot/ month	40.00	50.00		25.0

We will supply comparables and confidential customer lists soon.

Respectfully submitted,

Jeff Dukes.  
President  
Hoosier Hills Marina, Inc.



**Mooring Balls**

Small Boat	450.00	500.00	11.1
Houseboat	500.00	600.00	20.0

**Storage**

Winter wet storage	300.00	500.00	66.7
Winter dry storage	300.00	500.00	66.7
Lot storage/ month	30.00	40.00	33.0
Covered lot/ month	40.00	50.00	25.0

We will supply comparable slip rates and confidential customer lists very soon.

Respectfully submitted,

Jeff Dukes

President

Hoosier Hills Marina, Inc.



**AGENDA ITEM #20**

Slip Length	Hoosier Hills	Fourwinds Lake Monroe IN	Patoka Lake Marina Patoka Lake IN	Kent's Harbor	Hammond Marina Hammond IN	Lee's Ford Nancy KY	Venetian Marina Sandusky OH	Two Rivers Marina Louisiana, Mo.
18'								
20'			600 s	1545 s				
24'	900		800/891 s/se	1595 s/1896 s				
24'	2000 c		1600 sc1850 ae	1795 s/2125 a				
25'							1350 s	
25'								
26'				2085 a				
26'								
26'								
26'								
28'			1035s/1300a/1750sc	2212 es/2445 a				
30'	2500 c	3736.5 c	28' 2000 ac	2405 a	\$2,225.00		1850 s	
30'	1100-1700			2745/2935 a				
32'						3170 c		
34'								
35'					\$2,570.00		2375 s	
36'		4483.8 c		2725 a				\$2,700.00
36'				3085 a				
36'				3295 a				
36'								
38'								
40'			2185 a	2995 a	\$3,035.00	4395 c		\$3,000.00
40'			3700 a c			3345 o		
40'								
42'		4180.25 o						
45'	2000				\$3,615.00			
46'				4075 a				
46'								
46'								
46'								
48'		5978.8 c						\$3,595.00
50'	2310			3430 a	4250/4610	5405 c	3475 s	
52'								
54'		6426. c						
55'					\$4,800.00			
60'	3080/2530		2750 a/4250 ac	4142.5 a	\$5,350.00	7535 c		\$4,495.00
61'-Up				71.25/ft a	86.00/ft			
64'								
70'	3300/2750			6450 a				
72'		8968 c						
75'	3750		80' 3795 a/5300 ac					
76'		6967 o						
80'	4000					6330 o		
90'+								

**Exhibit B**

AGENDA ITEM #20

Slip Length	Hidden Cove Marina Senica, IL.	Bald Knob Marina Pistakee Lake IL.	Starved Rock Marina Starved Rock State Park IL	Twin Cove Marina Norris Lake KY	Eddy Creek Marina Kentucky Lake	The Moors Kentucky Lake	Lake Murray Ballantine, SC	Lynn Creek Grand Prairie, TX
18'	\$1,030.00							
20'	\$1,080.00		\$1,165.00		\$960.00		\$2,100.00	\$2,222.00
24'				\$1,560.00		\$1,050.00		2043 o
24'								2736 c
25'	\$1,255.00		\$1,550.00					
25'								
26'	\$1,295.00						\$2,300.00	
26'							\$2,599.00	
26'							\$2,880.00	
26'								
28'	\$1,375.00							
30'	\$1,455.00	\$2,595.00	\$1,900.00	\$2,400.00	\$1,710.00	\$1,650.00	\$3,132.00	2853 o
30'								3386 c
32'								
34'				\$3,000.00				
35'	\$1,655.00	\$3,260.00						
36'							\$3,772.00	\$4,081.00
36'								
36'								
36'								
38'								
40'	\$1,855.00		\$2,185.00			\$2,150.00		
40'								
40'								
42'								
45'								
46'	\$2,095.00							
46'								
46'								
46'								
48'								
50'	\$2,255.00		\$2,535.00		\$2,850.00	\$2,550.00	\$5,106.00	\$5,201.00
52'								
54'								
55'	\$2,455.00							
60'	\$2,605.00						\$6,452.00	
61'-Up					69.00/ft			
64'								
70'							\$8,100.00	
72'								
75'								
76'								
80'								
90'+								

**AGENDA ITEM #20**

Slip Length	Son Rise Marina Sandusky, OH 6 month Summer only - Winter not included	Sandusky Harbor Sandusky, OH Summer and Winter Storage Combined Included	North Shore Spring Lake, MI Summer Only	Holiday Marina Lake Lanier, GA Annual	Four Winds Bloomington, IN	Bay Harbor Bay Harbor MI	Lake Front Lake Erie, OH Annual Dockage and Winter Storage
18'							
20'				\$1,792.00			
24'				\$2,184.00	\$2,020.00		\$2,352.00
24'							
25'		\$2,908.75	\$3,195.00				
25'							
26'			\$3,195.00	\$2,276.00			
26'					\$2,189.00		
26'							
26'							
28'					\$2,440.00		
30'		\$3,347.50		\$2,712.00		\$4,950.00	\$3,468.00
30'			\$3,195.00				
32'					\$2,762.00		
34'							\$4,065.00
35'			\$3,795.00				
36'				\$2,972.00	\$3,150.00		
36'					\$3,357.00		
36'					\$3,565.00		
36'					\$3,778.00		
38'							
40'	\$2,950.00			\$3,036.00	\$3,418.00	\$7,800.00	\$4,938.00
40'			\$3,995.00				
40'							
42'							
45'							
46'				\$3,496.00	\$3,794.00		\$5,681.00
46'					\$4,078.00		
46'							
46'							
48'							
50'	\$3,800.00		\$4,795.00	\$3,824.00	\$4,275.00	\$9,250.00	
52'							
54'							
55'							
60'				\$4,564.00	\$5,700.00		
61'-Up			\$5,395.00				
64'							
70'				\$5,576.00			
72'							
75'							
76'							
80'							
90'+							

**AGENDA ITEM #20**

Slip Length	Lazy Days Lake Lanier Buford, GA	Light House Marina Aurora, IN	Four Season Cincinnati, OH Seasonal	Jamestown Lake Cumberland, KY Annual	Charleston Harbor Marina Charleston SC Annual	Conley Bottom Lake Cumberland, KY	Manitowoc Marina Manitowoc, WI Summer Dockage and Winter Storage Annual
18'							
20'	\$2,220.00		1540 s				
24'	\$2,736.00		\$1,848.00	\$2,695.00			
24'							
25'			\$77.00 Summer				
25'							
26'	\$2,968.00		\$27.00 Winter				
26'			\$104.00/ft. Annual				
26'							
26'			\$2,704.00				
28'			\$2,912.00			\$2,450.00	
30'	\$3,512.00		\$3,120.00	\$3,995.00			\$2,220.00
30'							
32'			\$3,328.00 Annual		\$4,940.00		
34'						\$3,200.00	
35'							
36'	\$4,212.00						\$3,040.00
36'			\$3,774.00				
36'							
36'							
38'						\$4,100.00	
40'		\$3,735.00		\$3,850.00	\$5,985.00	\$4,275.00	\$3,295.00
40'			\$4,160.00	\$4,795.00			
40'				\$5,495.00			
42'						\$4,700.00	
45'			\$4,680.00 Annual				
46'		\$4,085.00					
46'							
46'							
46'							
48'							
50'		\$4,385.00	\$5,200.00	\$4,895.00	\$7,790.00		
52'				6195 50' c			
54'							
55'							
60'		\$4,985.00	\$6,240.00				
61'-Up					\$10,260.00		
64'							
70'				\$9,395.00			
72'							
75'							
76'							
80'				6995 o			
90'+							

**AGENDA ITEM #20**

Slip Length	Bayport Marina Bayport, MN St. Croix River \$180/ft. summer & winter storage	Broken Arrow Marina Sunrise Beach, MO	Trade winds Marina Appling, GA Annual	Aqua Yacht Harbor Luka, MS	Michigan City Port Authority Michigan City, IN Summer Only	Swan Creek Roch Hall MD	Harrington Harbor Friendship MD
18'							
20'			\$1,767.00	\$1,450.00			
24'			\$2,565.00	\$1,700.00		\$2,900.00	
24'							
25'	\$4,540.00				\$1,650.00		
25'							
26'							\$2,900.00
26'							
26'							
26'							
28'			\$3,211.00				
30'	\$5,440.00			\$3,000.00	\$2,100.00		
30'							
32'							
34'							
35'					\$2,530.00		
36'			\$3,610.00				
36'							
36'							
36'							
38'							
40'		\$3,300.00		\$4,375.00	\$3,015.00		
40'							
40'							
42'							
45'		\$3,650.00			\$3,535.00		
46'							
46'							
46'							
46'							
48'		\$4,645.00	\$4,427.00				
50'			\$5,434.00	\$5,700.00	\$4,300.00	\$4,200.00	
52'		\$4,991.00					
54'							
55'			\$5,947.00				
60'					\$5,350.00		
61'-Up							
64'							
70'							
72'							
75'							
76'							
80'							
90'+							

Slip Length	Lake LBJ Horseshoe Bay, TX Annual	Emerald Point Marina Lake Travis, TX Annual Lease
18'		
20'		\$2,520.00
24'		
24'		
25'	\$2,809.00	
25'	\$3,001.00	
26'		\$2,700.00
26'		
26'		
26'		
28'		\$3,000.00
30'	\$3,900.00	
30'		
32'		
34'	\$4,908.00	
35'		
36'		\$5,880.00
36'		
36'		
36'		
38'		
40'	\$5,904.00	
40'		
40'		
42'		
45'		\$8,280.00
46'		
46'		
46'		
46'		
48'		
50'		
52'		
54'		
55'		
60'		
61'-Up		
64'		
70'		
72'		
75'		
76'		
80'		
90'+		